

Key Implementation Processes

Property selection

Target area – Census Tract – Block Group data in file

Property Status

Foreclosed – Title history from previous owner to lender

Abandoned

Property impact on neighborhood - contributes to stabilization; compatible

Rehabilitation feasibility

Scope of work – assess cost reasonableness

Special design or engineering issues – cost and/or time implications
(zoning variance required?)

Marketability – compare to existing properties; price; size; amenities; prospects
for timely sale

Consider HUD – FHA properties as one source

Property Acquisition - URA

Appraisal – must be current – 60 days of offer

Discount – Minimum 1 % - seek maximum feasible

Voluntary Sale – document in all cases – see Tenant Assistance, Relocation and
Real Property Acquisition, HUD Handbook 1378, Appendices 31 or 32, at:
<http://www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm>

Occupied properties - General policy – decline occupied units for NSP

Environment

Determine the appropriate level of environmental review!

CDBG Environmental procedures followed for comparable NSP funded activities

Exempt Activities - see 24 CFR 58.34

Categorically Excluded Activities Not Subject to 24 CFR 58.35(b)

See suggested format -

<http://www.hud.gov/offices/cpd/environment/review/excludednotsubject.doc>)

Categorically Excluded Activities Subject to [58.35\(a\)](#) – MOST SINGLE FAMILY NSP ACTIVITIES

See suggested format –

<http://www.hud.gov/offices/cpd/environment/review/exclusionsuggestedformat.doc>

All other activities not listed in these sections – Environmental Assessment see 24 CFR 58.36

See also - CDBG - Toolkit on Crosscutting Issues – Module 2: Environmental Review:

<http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/Module-2-Contents-WEB.pdf>

NSP Environmental References:

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspenvironmentalreq.cfm>

Single Family Units

Environmental review for activity that consists of acquisition, rehabilitation and resale (or rental) of single unit structures

Typically – Categorically excluded, subject other environmental laws and authorities (Sec. 58.35(b)):

<http://www.hud.gov/offices/cpd/environment/review/exclusionsuggestedformat.doc>

Multi Family Housing

Generally – Environmental Assessment required – Notices; Request for Release of Funds

Lead-based paint - assessment

Lead-Based Paint requirements apply – same as CDBG – see 24 CFR Part 35

All properties constructed prior to 1978 - lead hazard evaluation and reduction activities be carried out on properties receiving NSP assistance

Lead hazard evaluation conducted by appropriate lead-certified personnel

Ensure rehabilitation budget includes sufficient costs associated with assessment, testing, and reduction, as needed, of lead hazards – or decline properties requiring extensive remediation

Property in Flood Plains

Flood Insurance Program requirement not applicable to States – see FAQ

Rehabilitation

Differences from CDBG

No owner occupant

Grantee or sub recipient handles all aspects of contracting – follow procurement

Batch units – up to 7 at a time (labor standards applicability) – single contractor?

Expand range of usual contractors and trades people

Marketing – coordinate with counseling agencies to ensure purchase ready households are available

Standards – Work Write Up

Consider need to adjust existing rehabilitation standards to incorporate energy conservation and other “Green” features (see below).

Other Requirements

Counseling

The grantee must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan.
(NSP Notice II. B. 3. b.)

Homebuyer Mortgages

The grantee must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators’ guidance for non-traditional mortgages (see, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>).
(NSP Notice II. B. 3. b.)

Section 504 – Rehabilitation Act of 1973

Primarily for Multifamily properties

New construction requirement applies to rehabilitation that is “substantial alteration”

“(a) Substantial alteration. If alterations are undertaken to a project (including a public housing project as required by Sec. 8.25(a)(2)) that has 15 or more units and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the provisions of Sec. 8.22 shall apply.” [Note: 8.22 – New construction – housing facilities] 24 CFR 8.23

Energy

Greater emphasis on energy – consider

Opportunity to enhance past practice, innovate

Consider NSP time deadlines – need to move promptly

Energy Star products

http://www.energystar.gov/index.cfm?fuseaction=find_a_product.

Other Energy Efficiency features

http://www.energystar.gov/index.cfm?c=home_improvement.hm_improvement_index

Energy Guide Book - Building ENERGY STAR Qualified Homes and Incorporating Energy Efficiency and "Green" Building Practices into HOME-funded Affordable Housing

<http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/200809energystar.pdf>

See particularly - Chapter 4: Incorporating Energy Efficiency Measures into Moderate Rehabilitation and Other Activities

Financial Management and Procurement

CDBG - Toolkit on Crosscutting Issues – Module 1

Procurement

Public agency or nonprofit hiring contractor – not homeowner as in typical owner occupied rehabilitation program.

Follow and document procurement process showing compliance with applicable standards (24 CFR 84.44 or 85.36)

Labor standards

CDBG - Toolkit on Crosscutting Issues – Module 3

Sec. 570.603 Labor standards

(a) Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance received under the Act. In accordance with section 110(a) of the Act, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, **these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units.** (emphasis added)

Fair Housing and Equal Opportunity

All requirements under CDBG apply to NSP activities

Section 3

Applicability – Key threshold – Contracts or subcontracts in excess of \$100,000.

See Section 3 regulation excerpt – Appendix 2

Additional Section 3 reference material

CDBG - Toolkit on Crosscutting Issues – Module 5: Fair Housing and Non-discrimination

<http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/index.cfm>

Appendix 1 - Selected FAQ

Posted 11/7/08 **Can a veteran preference of any type be placed on the housing produced using NSP1 funds?**

A veteran's preference would not violate section 109 nondiscrimination requirements or any other NSP1/CDBG requirements.

Updated 06/17/09 **If an NSP1 designee (e.g.; sub recipient or developer) is acquiring a foreclosed property with NSP1 funds, is the designee required to provide written notice to the owner (REO title holder) that the terms of the acquisition must comply with the voluntary acquisition provisions of the Uniform Relocation Act (URA)?**

Use in Mod 2

Yes. The URA voluntary acquisition requirements (49 CFR 24.101(b)(1)-(5)) apply to anyone who uses NSP1 funds (or any Federal financial assistance) to acquire property including any Agency, non-profit, or individual homebuyers who use federally-funded down payment or other financial assistance. To meet these requirements, the owner of record must be notified in writing that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, that the acquisition will not take place.

Further, under NSP1, an appraisal of the foreclosed property must be made to determine the current fair market value 60 days prior to making the final offer and the owner must be advised that, under NSP1, the acquisition price must be at a 1% discount from the fair market value (the offer price should reflect the discount proposed by the buyer).

There are specific URA voluntary acquisition requirements that must be met depending on whether or not the buyer has the power of eminent domain and will not use it (see 49 CFR 24.101(b)(1)(i)-(iv)) or if the buyer does not have the power of eminent domain (see 49 CFR 24.101(b)(2)). Any acquisition under possible threat of eminent domain cannot be considered a "voluntary acquisition" (even if the seller is willing to negotiate). HUD has developed a number of sample guide forms to assist NSP1 grantees in meeting these requirements. The guide forms and other information and resources are available on the NSP1 Acquisition & Relocation Resources page located at:

<http://www.hud.gov/offices/cpd/library/relocation/NSP1/index.cfm>

[From FAQ 8/12/09 page 5]

Posted 11/13/08 **Are localities receiving NSP1 funding from the state program required to participate in the National Flood Insurance Program?**

No. Localities receiving NSP1 funding from the state program are not required to participate in the National Flood Insurance Program. However, any locality receiving both NSP1 State formula funds and a direct NSP1 allocation, can only use its direct NSP1 allocation for acquisition or construction (including rehabilitation) of buildings in a special flood hazard area (SFHA) if it is participating in the National Flood Insurance Program.

[From FAQ 8/12/09 page 23]

Is radon testing and abatement a mandate for homes assisted with HUD funding?

No, the U.S. Department of Housing and Urban Development does not have requirements for the installation of radon testing and abatement systems for units receiving HUD assistance.

HUD Form 9548-e is the Department's Radon gas and mold notice release agreement given to purchasers of single family HUD-owned properties, i.e., properties that had previously received FHA insurance, but were default and were acquired by HUD. The form requires the purchaser to accept the property "as is", but also provides useful information with regards to Radon gas and mold. Another form to consider is HUD-92564-CN, which advises homebuyers under FHA's single family insurance program to get a home inspection and also encourages testing for radon.

HUD assumes compliance by the users with all applicable State and local regulations. Individuals concerned about radon should check with their respective State radon office. Some states require only licensed contractors installing radon testing and abatement systems.

[From FAQ 8/12/09 page 35]

Appendix 2 – Section 3 Regulation Excerpt

PART 135_ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME

Subpart A General Provisions

Sec. 135.3 Applicability.

(a) Section 3 covered assistance.

(1) Public and Indian housing Assistance.

(2) Housing and community development assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects;

- (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
- (ii) Housing construction; and
- (iii) Other public construction.

(3) Thresholds—

- (i) [Public and Indian housing]

(ii) Thresholds for section 3 covered housing and community development assistance—

(A) Recipient thresholds. The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) Contractor and subcontractor thresholds. The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and **the contract or subcontract exceeds \$100,000.** (emphasis added)

(C) Threshold met for recipients, but not contractors or subcontractors. If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.